

REMARKS

The Applicants acknowledge the Examiner's comprehensive Office Action with appreciation. The finality of the previous Office Action has been withdrawn. Claims 20, 22-33, 35, and 37 remain pending in the application. The Office maintains a rejection under 35 USC § 112, first paragraph, and raises a new rejection under 35 USC § 103. The Office also raises objections as to form.

Claims 20, 22-33, and 37 are rejected for obviousness under 35 USC § 103(a) based on the disclosure of Lefoulon, et al. (US Patent No. 6,143,789). It is the position of the Office that Lefoulon, et al. disclose naphthalene derivatives that are melatoninergetic receptor ligands. The Office states that, although not all the instant substituents are taught by the Lefoulon, et al. reference, there is significant overlap between the instant substituents and those disclosed in the cited reference.

It is the position of the Office that Lefoulon, et al. disclose compounds which are homologous to the instant compounds (e.g., N-{2-[7-methoxy-3-(3-trifluoromethylphenyl)-1-naphthyl]acetamide and N-{2-[7-methoxy-3-(3-aminophenyl)-1-naphthyl]acetamide). The Office alleges that these disclosed species are homologues of the instant compounds. It is the position of the Office that, absent a demonstration of superior effects, the instant compounds are rendered obvious by the disclosure of such homologous compounds in Lefoulon, et al.

The Applicants respectfully submit that one skilled in the chemical arts would recognize that the chemical differences between the compounds disclosed in Lefoulon, et al. and the instant compounds may affect binding affinity and that characteristics such as binding selectivity and bioavailability are difficult to predict. Moreover, the Applicants also submit a Declaration by Dr. Philippe DELAGRANGE, a scientist skilled in this particular art, which speaks to the superior and unexpected effects associated with the instant compounds when compared to the closest compounds disclosed in the Lefoulon, et al. reference cited by the Office. Specifically, the Declarant provides comparative data which demonstrate that the

instantly claimed compounds exhibit superior binding selectivity as well as superior bioavailability over the compounds disclosed in Lefoulon, et al. Thus, the Applicants respectfully submit that the compounds disclosed in Lefoulon, et al. do not render the instantly claimed compounds obvious. Reconsideration and withdrawal of the obviousness rejection under 35 USC § 103(a) is respectfully requested.

Claim 35 remains rejected for lack of enablement under 35 USC § 112, first paragraph. It is the position of the Office that the specification, while being enabling for the treatment of anxiety does not reasonably provide enablement for the treatment of the remaining conditions recited in Claim 35. It is the further position of the Office that the DELAGRANGE declaration submitted with the previous Response and Amendment does not demonstrate a correlation between melatonergic binding activity and the conditions claimed to be treatable.

With the instant Amendment, Claim 35 has been amended to limit the conditions claimed to be treatable to anxiety, sleep disorders, migraine, and depression. The Applicants note that depression was inadvertently omitted from Claim 35 as previously amended. Support for this amendment may be found at page 8 of the instant specification as well as in the originally filed claims. The Applicants respectfully submit that there is an art-recognized link between the treatment of anxiety (which is acknowledged as enabled by the Office) and depression. The Applicants also supply an excerpt from Goodman and Gilman's The Pharmacological Basis of Therapeutics, Eighth Ed., 1990, Pergamon Press, New York, pp. 428-429 (which reference is also listed on the enclosed Form PTO-1449) to demonstrate that anxiety is recognized to be associated with depression.

Moreover, the Applicants further submit that the DELAGRANGE Declaration submitted with the Response After Final of January 31, 2008 demonstrates a correlation between binding affinity at the melatonergic receptors and treatment of depression, anxiety, migraine, and sleep disorders. Thus, the Applicants submit that the instant invention is enabled with respect to the treatment of the specific

conditions claimed. Reconsideration and withdrawal of the lack of enablement rejection is respectfully requested.

The Office objects to Claim 20 as containing non-elected subject matter since it recites a definition for "heteroaryl." With the instant Amendment, Claim 20 has been amended to delete the heteroaryl definition. Withdrawal of the objection is respectfully requested.

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Accordingly, entry of present amendment and the present DELAGRANGE Declaration, reconsideration of all grounds of objection and rejection, withdrawal thereof, and passage of this application to issue are all hereby respectfully solicited.

It should be apparent that the undersigned agent has made an earnest effort to place this application into condition for immediate allowance. If she can be of assistance to the Examiner in the elimination of any possibly-outstanding insignificant impediment to an immediate allowance, the Examiner is respectfully invited to call her at her below-listed number for such purpose.

Allowance is solicited.

Respectfully submitted,

THE FIRM OF HUESCHEN AND SAGE

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Enclosure: DELAGRANGE Declaration; Form PTO-1449 and Accompanying
Reference; Listing of Claims; and Postal Card Receipt

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**THE COMMISSIONER IS HEREBY AUTHORIZED TO CHARGE ANY FURTHER
OR ADDITIONAL FEES WHICH MAY BE REQUIRED (DUE TO OMISSION,
DEFICIENCY, OR OTHERWISE), OR TO CREDIT ANY OVERPAYMENT, TO
DEPOSIT ACCOUNT NO. 08,3220.**